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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,971	01/29/2004	Naho Murakami	118281	2369
25944	7590	08/30/2005	EXAMINER	
OLIFF & BERRIDGE, PLC			JOHNSON III, HENRY M	
P.O. BOX 19928			ART UNIT	
ALEXANDRIA, VA 22320			PAPER NUMBER	

3739

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/765,971	Applicant(s) MURAKAMI, NAHO	
	Examiner Henry M. Johnson, III	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-10 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 1-29-04
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: on page 8, line 15; the word intention should be intended.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 3 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the variable optical system " in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,648,876 to Murakami in view of U.S. Patent 4,729,372 to L'Esperance, Jr. Murakami teaches a laser treatment apparatus for delivery of a beam to an eye including a laser source (Fig. 2, #

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10), and an optical fiber (Fig. 2, # 2) for delivery of the beam to a slit lamp system, the fiber also inherently homogenizing the beam. The image from the face of the fiber is "manipulated" in an optical system that has a group of zoom lenses (Fig. 2, # 32) and distortion generating optics to alter the beam distribution (Col. 3, lines 15-30). The zoom optics alters the spot size from 50 to 500 μm (Col. 2, line 53). The distortion generating is disclosed as lowering the center of the beam intensity for spot sizes of 500 μm (Fig. 4A) and maintaining a uniform intensity for spot sizes of 50 μm (Fig. 4B). Murakami does not disclose the use of an attenuation means.

L'Esperance, Jr. discloses the use of a variable attenuation disk to alter the beam distribution of a laser ophthalmic system. Variable sized apertures with variable blocked center areas are disclosed for treating a hyperopic eye (Col. 6, lines 57-60). Using the various apertures (Fig. 11), the laser beam is attenuated at different ratios dependent on the spot size. With the variable blocked areas, the impact on the on-axis and off-axis portions can be selected as needed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the blocked apertures as taught by L'Esperance, Jr. in the laser device of Murakami as an alternative equivalent for modifying the energy distribution of the beam delivered to an eye.

Conclusion

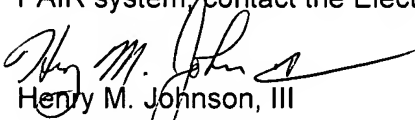
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,651, 784 to Klopotek teaches a rotating mask that attenuates portions of a laser beam to alter a laser beam pattern. U.S. Patent 4,838,266 to Koziol et al. discloses a lens type attenuator for modifying the energy distribution of a laser beam.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Henry M. Johnson, III
Primary Examiner
Art Unit 3739